

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 532

Introduced by Baker, 44

Read first time January 17, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor carriers; to amend sections 75-304 to
2 75-306, 75-307.01, 75-309, and 75-311, Reissue Revised
3 Statutes of Nebraska, and sections 75-109.01, 75-128,
4 75-156, 75-302, and 75-303, Revised Statutes Supplement,
5 2002; to require a passenger carrier license for motor
6 vehicle operators transporting passengers; to provide for
7 fees and penalties; to provide a duty for the Revisor of
8 Statutes; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Beginning January 1, 2004, it is unlawful for
2 a regulated motor carrier to engage in the transportation of
3 passengers in intrastate commerce unless the motor carrier has on
4 file and open for inspection a copy of a passenger carrier license
5 issued under section 3 of this act for every individual employed by
6 the carrier to operate a motor vehicle for the transportation of
7 passengers.

8 Sec. 2. Beginning January 1, 2004, any individual
9 employed by a regulated motor carrier to operate a motor vehicle
10 for the transportation of one or more passengers shall have a
11 passenger carrier license issued under section 3 of this act and
12 shall carry such license at all times when operating such motor
13 vehicle.

14 Sec. 3. (1) The commission shall issue a passenger
15 carrier license to an applicant who meets the requirements of this
16 section. The applicant shall apply on a form prescribed by the
17 commission. The applicant shall furnish a copy of his or her
18 fingerprints to the Nebraska State Patrol for a check of his or her
19 criminal history record information maintained by the Federal
20 Bureau of Investigation for the purpose of determining whether the
21 commission has a basis to deny the application. The applicant
22 shall authorize the release of the information to the commission
23 and shall pay the actual cost of any fingerprinting or check of his
24 or her criminal history record information. The criminal history
25 record information check shall be completed within ninety days
26 after the date the application is received in the commission's
27 office and, if not, the application shall be returned to the
28 applicant.

1 (2) The commission shall not issue a passenger carrier
2 license to a person who has:

3 (a) Been convicted of a violent felony;

4 (b) Been convicted of any crime involving sexual assault
5 or sexual contact;

6 (c) Had his or her motor vehicle operator's license
7 revoked or suspended once in the five years preceding the date of
8 the application or twice in the ten years preceding the date of the
9 application; or

10 (d) Within five years preceding the date of the
11 application, been released after finishing the sentence, including
12 probation or parole, for:

13 (i) Driving while under the influence of alcoholic liquor
14 or drugs;

15 (ii) Driving on a suspended license; or

16 (iii) Motor vehicle homicide.

17 (3) The commission may, in its discretion, deny a
18 passenger carrier license for conviction of any other offense not
19 included under subsection (2) of this section.

20 Sec. 4. A passenger carrier license shall be valid for
21 two years from the date of issuance. In order to renew the
22 license, the licensee shall submit a renewal application to the
23 commission on a form prescribed by the commission which includes
24 the same information as the original application and any other
25 information required by the commission.

26 Sec. 5. The commission may, by order, suspend, cancel,
27 or revoke a passenger carrier license for any reason a license may
28 be denied under subsection (2) of section 3 of this act.

1 Sec. 6. Section 75-109.01, Revised Statutes Supplement,
2 2002, is amended to read:

3 75-109.01. Except as otherwise specifically provided by
4 law, the Public Service Commission shall have jurisdiction, as
5 prescribed, over the following subjects:

6 (1) Common carriers, generally, pursuant to sections
7 75-101 to 75-158;

8 (2) Grain pursuant to the Grain Dealer Act and the Grain
9 Warehouse Act and sections 89-1,104 to 89-1,108;

10 (3) Manufactured homes and recreational vehicles pursuant
11 to the Uniform Standard Code for Manufactured Homes and
12 Recreational Vehicles;

13 (4) Modular housing units pursuant to the Nebraska
14 Uniform Standards for Modular Housing Units Act;

15 (5) Motor carrier registration and safety pursuant to
16 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and
17 75-384 and sections 1 to 5 of this act;

18 (6) Pipeline carriers and rights-of-way pursuant to
19 sections 57-1301 to 57-1307 and 75-501 to 75-503;

20 (7) Railroad carrier safety pursuant to sections 74-918,
21 74-919, 74-1323, and 75-401 to 75-430;

22 (8) Telecommunications carriers pursuant to the Automatic
23 Dialing-Announcing Devices Act, the Emergency Telephone
24 Communications Systems Act, the Enhanced Wireless 911 Services Act,
25 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
26 Telecommunications Regulation Act, the Nebraska Telecommunications
27 Universal Service Fund Act, the Telecommunications Relay System
28 Act, the Telephone Consumer Slamming Prevention Act, and sections

1 86-574 to 86-580;

2 (9) Transmission lines and rights-of-way pursuant to
3 sections 70-301 and 75-702 to 75-724; and

4 (10) Water service pursuant to the Water Service
5 Regulation Act.

6 Sec. 7. Section 75-128, Revised Statutes Supplement,
7 2002, is amended to read:

8 75-128. (1) It is hereby declared to be the policy of
9 the Legislature that all matters presented to the commission be
10 heard and determined without delay. All matters requiring a
11 hearing shall be set for hearing at the earliest practicable date
12 and in no event, except for good cause shown, which showing shall
13 be recited in the order, shall the time fixed for hearing be more
14 than six months after the date of filing of the application,
15 complaint, or petition on which such hearing is to be had. Except
16 in case of an emergency and upon a motion to proceed with less than
17 a quorum made by all parties and supported by a showing of clear
18 and convincing evidence of such emergency and benefit to all
19 parties, a quorum of the commission shall hear all matters set for
20 hearing. Except as otherwise provided in section 75-121 and except
21 for good cause shown, a decision of the commission shall be made
22 and filed within thirty days after completion of the hearing or
23 after submission of affidavits in nonhearing proceedings.

24 (2) In the case of any proceeding upon which a hearing is
25 held, the transcript of testimony shall be prepared and submitted
26 to the commission prior to entry of an order, except that it shall
27 not be necessary to have prepared prior to commission decision the
28 transcripts of testimony on hearings involving noncontested

1 proceedings and hearings involving emergency rate applications
2 under section 75-121.

3 (3) For each application, complaint, or petition filed
4 with the commission, except those filed under sections 75-301 to
5 75-322 and sections 1 to 5 of this act, there shall be charged a
6 filing fee to be determined by the commission, but in an amount not
7 to exceed the sum of fifty dollars payable at the time of such
8 filing. There shall also be charged to persons regulated by the
9 commission a hearing fee of fifty dollars for each half day of
10 hearings if the person regulated by the commission files an
11 application, complaint, or petition which necessitates a hearing.

12 Sec. 8. Section 75-156, Revised Statutes Supplement,
13 2002, is amended to read:

14 75-156. (1) In addition to other penalties and relief
15 provided by law, the Public Service Commission may, upon a finding
16 that the violation is proven by clear and convincing evidence,
17 assess a civil penalty of up to ten thousand dollars per day
18 against any person, motor carrier, regulated motor carrier, common
19 carrier, or contract carrier for each violation of (a) any
20 provision of sections 75-301 to 75-390 and sections 1 to 5 of this
21 act administered by the commission or section 75-126 as such
22 section applies to any person or carrier specified in sections
23 75-301 to 75-390 and sections 1 to 5 of this act, (b) a commission
24 order entered pursuant to the Automatic Dialing-Announcing Devices
25 Act, the Emergency Telephone Communications Systems Act, the
26 Intrastate Pay-Per-Call Regulation Act, the Nebraska
27 Telecommunications Regulation Act, the Nebraska Telecommunications
28 Universal Service Fund Act, or the Telecommunications Relay System

1 Act, (c) any term, condition, or limitation of any certificate or
2 permit issued by the commission pursuant to sections 75-301 to
3 75-390 and sections 1 to 5 of this act, or (d) any rule,
4 regulation, or order of the commission issued under authority
5 delegated to the commission pursuant to sections 75-301 to 75-390
6 and sections 1 to 5 of this act. The civil penalty assessed under
7 this section shall not exceed two million dollars per year for each
8 violation. The amount of the civil penalty assessed in each case
9 shall be based on the severity of the violation charged. The
10 commission may compromise or mitigate any penalty prior to hearing
11 if all parties agree. In determining the amount of the penalty,
12 the commission shall consider the appropriateness of the penalty in
13 light of the gravity of the violation and the good faith of the
14 violator in attempting to achieve compliance after notification of
15 the violation is given.

16 (2) Upon notice and hearing in accordance with this
17 section and section 75-157, the commission may enter an order
18 assessing a civil penalty of up to one hundred dollars against any
19 person, firm, partnership, limited liability company, corporation,
20 cooperative, or association for failure to file an annual report as
21 required by section 75-116 and as prescribed by commission rules
22 and regulations or for failure to register as required by section
23 86-125 and as prescribed by commission rules and regulations. Each
24 day during which the violation continues after the commission has
25 issued an order finding that a violation has occurred constitutes a
26 separate offense. Any party aggrieved by an order of the
27 commission under this section, except an order assessing a civil
28 penalty issued under subdivision (1)(b) of this section, has the

1 rights of appeal set forth in section 75-136.01. For an order
2 assessing a civil penalty issued under subdivision (1)(b) of this
3 section, any party aggrieved may appeal. The appeal shall be in
4 accordance with the Administrative Procedure Act.

5 (3) When any person or party is accused of any violation
6 listed in this section, the commission shall notify such person or
7 party in writing (a) setting forth the date, facts, and nature of
8 each act or omission upon which each charge of a violation is
9 based, (b) specifically identifying the particular statute,
10 certificate, permit, rule, regulation, or order purportedly
11 violated, (c) that a hearing will be held and the time, date, and
12 place of the hearing, (d) that in addition to the civil penalty,
13 the commission may enforce additional penalties and relief as
14 provided by law, and (e) that upon failure to pay any civil penalty
15 determined by the commission, the penalty may be collected by civil
16 action in the district court of Lancaster County.

17 Sec. 9. Section 75-302, Revised Statutes Supplement,
18 2002, is amended to read:

19 75-302. For purposes of sections 75-301 to 75-322 and
20 sections 1 to 5 of this act and in all rules and regulations
21 adopted and promulgated by the commission pursuant to such
22 sections, unless the context otherwise requires:

23 (1) Carrier enforcement division means the carrier
24 enforcement division of the Nebraska State Patrol or the Nebraska
25 State Patrol;

26 (2) Certificate means a certificate of public convenience
27 and necessity issued under Chapter 75, article 3, and sections 1 to
28 5 of this act to common carriers by motor vehicle;

1 (3) Civil penalty means any monetary penalty assessed by
2 the commission or carrier enforcement division due to a violation
3 of Chapter 75, article 3, and sections 1 to 5 of this act or
4 section 75-126 as such section applies to any person or carrier
5 specified in Chapter 75, article 3, and sections 1 to 5 of this
6 act; any term, condition, or limitation of any certificate or
7 permit issued pursuant to Chapter 75, article 3, and sections 1 to
8 5 of this act; or any rule, regulation, or order of the commission,
9 the Division of Motor Carrier Services, or the carrier enforcement
10 division issued pursuant to Chapter 75, article 3, and sections 1
11 to 5 of this act;

12 (4) Commission means the Public Service Commission;

13 (5) Common carrier means any person who or which
14 undertakes to transport passengers or household goods for the
15 general public in intrastate commerce by motor vehicle for hire,
16 whether over regular or irregular routes, upon the highways of this
17 state;

18 (6) Contract carrier means any motor carrier which
19 transports passengers or household goods for hire other than as a
20 common carrier designed to meet the distinct needs of each
21 individual customer or a specifically designated class of customers
22 without any limitation as to the number of customers it can serve
23 within the class;

24 (7) Division of Motor Carrier Services means the Division
25 of Motor Carrier Services of the Department of Motor Vehicles;

26 (8) Escort services means an attendant or caregiver
27 accompanying a minor or persons who are physically, mentally, or
28 developmentally disabled and unable to travel or wait without

1 assistance or supervision;

2 (9) Highway means the roads, highways, streets, and ways
3 in this state;

4 (10) Household goods means personal effects and property
5 used or to be used in a dwelling, when a part of the equipment or
6 supply of such dwelling, and similar property as the commission may
7 provide by regulation if the transportation of such effects or
8 property, is:

9 (a) Arranged and paid for by the householder, including
10 transportation of property from a factory or store when the
11 property is purchased by the householder with the intent to use in
12 his or her dwelling; or

13 (b) Arranged and paid for by another party;

14 (11) Intrastate commerce means commerce between any place
15 in this state and any other place in this state and not in part
16 through any other state;

17 (12) Motor carrier means any person other than a
18 regulated motor carrier who or which owns, controls, manages,
19 operates, or causes to be operated any motor vehicle used to
20 transport passengers or property over any public highway in this
21 state;

22 (13) Motor vehicle means any vehicle, machine, tractor,
23 trailer, or semitrailer propelled or drawn by mechanical power and
24 used upon the highways in the transportation of passengers or
25 property but does not include any vehicle, locomotive, or car
26 operated exclusively on a rail or rails;

27 (14) Permit means a permit issued under Chapter 75,
28 article 3, and sections 1 to 5 of this act to contract carriers by

1 motor vehicle;

2 (15) Person means any individual, firm, partnership,
3 limited liability company, corporation, company, association, or
4 joint-stock association and includes any trustee, receiver,
5 assignee, or personal representative thereof;

6 (16) Private carrier means any motor carrier which owns,
7 controls, manages, operates, or causes to be operated a motor
8 vehicle to transport passengers or property to or from its
9 facility, plant, or place of business or to deliver to purchasers
10 its products, supplies, or raw materials (a) when such
11 transportation is within the scope of and furthers a primary
12 business of the carrier other than transportation and (b) when not
13 for hire. Nothing in sections 75-301 to 75-322 and sections 1 to 5
14 of this act shall apply to private carriers except sections 75-307
15 to 75-307.03 as they apply to private carriers; and

16 (17) Regulated motor carrier means any person who or
17 which owns, controls, manages, operates, or causes to be operated
18 any motor vehicle used to transport passengers, other than those
19 excepted under section 75-303, or household goods over any public
20 highway in this state.

21 Sec. 10. Section 75-303, Revised Statutes Supplement,
22 2002, is amended to read:

23 75-303. Sections 75-301 to 75-322 and sections 1 to 5 of
24 this act shall apply to transportation by a motor carrier or the
25 transportation of passengers and household goods by a regulated
26 motor carrier for hire in intrastate commerce except for the
27 following:

28 (1) A motor carrier for hire in the transportation of

1 school children and teachers to and from school;

2 (2) A motor carrier for hire operated in connection with
3 a part of a streetcar system;

4 (3) An ambulance, ambulance owner, hearse, or automobile
5 used exclusively as an incident to conducting a funeral;

6 (4) A motor carrier exempt by subdivision (1) of this
7 section which hauls for hire (a) persons of a religious, fraternal,
8 educational, or charitable organization, (b) pupils of a school to
9 athletic events, (c) players of American Legion baseball teams when
10 the point of origin or termination is within five miles of the
11 domicile of the carrier, and (d) the elderly as defined in section
12 13-1203 and their spouses and dependents under a contract with a
13 municipality or county authorized in section 13-1208;

14 (5) A motor carrier operated by a city and engaged in the
15 transportation of passengers, and such exempt operations shall be
16 no broader than those authorized in intrastate commerce at the time
17 the city or other political subdivision assumed ownership of the
18 operation;

19 (6) A motor vehicle owned and operated by a nonprofit
20 organization which is exempt from payment of federal income taxes,
21 as provided by section 501(c)(4), Internal Revenue Code,
22 transporting solely persons over age sixty, persons who are spouses
23 and dependents of persons over age sixty, and handicapped persons;

24 (7) A motor carrier engaged in the transportation of
25 passengers operated by a transit authority created under and acting
26 pursuant to the laws of the State of Nebraska;

27 (8) A motor carrier operated by a municipality or county,
28 as authorized in section 13-1208, in the transportation of elderly

1 persons;

2 (9) A motor vehicle having a seating capacity of twenty
3 or less which is operated by a governmental subdivision or a
4 qualified public-purpose organization as defined in section 13-1203
5 engaged in the transportation of passengers in the state;

6 (10) A motor vehicle owned and operated by a nonprofit
7 entity organized for the purpose of furnishing electric service;
8 and

9 (11) A motor carrier engaged in escort services and under
10 contract with the Department of Health and Human Services or with
11 any agency organized under the Nebraska Community Aging Services
12 Act.

13 Sec. 11. Section 75-304, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 75-304. The commission may establish such just and
16 reasonable classifications of groups of carriers, included in the
17 terms common carrier and contract carrier, as the special nature of
18 the services performed by such carriers require and adopt and
19 promulgate such just and reasonable rules, regulations, and
20 requirements, to be observed by the carrier so classified or
21 grouped, as the commission deems necessary or desirable in the
22 public interest and as are consistent with the provisions of
23 sections 75-301 to 75-322 and sections 1 to 5 of this act. All
24 certificates and permits issued by the commission shall be
25 construed and interpreted, and the operations authorized thereunder
26 shall be tested and determined, in accordance with such
27 classification so established and any rule, regulation, or
28 requirement prescribed by the commission relating to such carrier

1 so classified.

2 Sec. 12. Section 75-304.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 75-304.01. The commission shall prescribe minimum rates,
5 fares, and charges for contract carriers. No reduction shall be
6 made in any such charge, either directly or by means of any change
7 in any rule, regulation, or practice affecting such charge or the
8 value of service thereunder, except after ten days' notice of the
9 proposed change filed in the form and manner provided for common
10 carrier rate changes. The notice shall plainly state the change
11 proposed and the time when the change will take effect. No
12 contract carrier shall demand, charge, or collect less compensation
13 for such transportation than the charges to be made by common
14 carriers for the same transportation in accordance with sections
15 75-118 to 75-155 and 75-301 to 75-322 and sections 1 to 5 of this
16 act, as affected by any rule, regulation, or practice so filed or
17 as prescribed by the commission. It is unlawful for any such
18 carrier to charge less than the rates, fares, and charges approved
19 by the commission.

20 Sec. 13. Section 75-304.02, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 75-304.02. (1) Any mover of household goods operating in
23 a city or village of this state or within a radius of five miles of
24 the corporate limits of such city or village and engaged in the
25 transportation for hire of household goods in such city or village
26 or within such five-mile radius prior to January 1, 1996, may
27 continue operations for a period of up to one year after April 4,
28 1996, without obtaining a certificate of public convenience and

1 necessity or a permit issued by the commission authorizing such
2 operations. Beginning on and after one year after April 4, 1996,
3 such mover of household goods shall be subject to sections 75-301
4 to 75-322 and sections 1 to 5 of this act.

5 (2) During the one-year period after April 4, 1996, the
6 commission shall grant the authority to engage in the
7 transportation for hire of household goods in such city or village
8 or within such five-mile radius to any such mover of household
9 goods which applies to the commission and furnishes evidence of its
10 operations in a manner and form as directed by the commission by
11 rule and regulation. The authority to engage in the transportation
12 of household goods shall become effective one year after April 4,
13 1996.

14 Sec. 14. Section 75-305, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 75-305. For purposes of sustaining the administration
17 and enforcement of sections 75-301 to 75-322 and sections 1 to 5 of
18 this act as such sections pertain to regulated motor carriers,
19 there is hereby fixed an application fee of seventy-five dollars
20 payable by the applicant at the time of filing the application,
21 except that such fee shall not apply to applications under sections
22 75-303.01 and 75-303.02. In addition thereto, every regulated
23 motor carrier subject to sections 75-301 to 75-322 and sections 1
24 to 5 of this act shall pay an annual fee not exceeding the sum of
25 twenty-five dollars for each motor vehicle operated, which fee
26 shall be fixed by the commission and shall not exceed the amount
27 actually necessary to sustain the administration and enforcement of
28 such sections. When the applicant has registered his or her motor

1 vehicles under section 60-305.09, such fee of twenty-five dollars
2 shall be payable on whichever shall be the lesser of (1) the
3 proportion of his or her fleet so registered or (2) the number of
4 motor vehicles owned by him or her and actually used in intrastate
5 business within this state, except that such annual fee for any
6 truck-trailer or tractor-trailer combination shall be forty
7 dollars. In the case of a truck-trailer or tractor-trailer
8 combination, only one license plate shall be required for such
9 combination. Such annual fees shall be due and payable on or
10 before January 1 and shall be delinquent on March 1 of each year
11 after such permit or certificate has been issued. If the initial
12 certificate or permit is issued to a motor carrier on or after July
13 1, the fee shall be fifty percent of the annual fee. Such fees
14 shall be paid to and collected by the commission and remitted to
15 the State Treasurer within thirty days of receipt for credit to the
16 General Fund.

17 Sec. 15. Section 75-306, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 75-306. Receipt for the payment of annual fees shall be
20 issued by the commission. The commission shall issue sufficient
21 license plates and renewal tabs to any regulated motor carrier who
22 is in compliance with sections 75-301 to 75-322 and sections 1 to 5
23 of this act and the rules and regulations of the commission, except
24 contract carriers operating pursuant to section 75-303.01, for the
25 purpose of identification of regulated motor carriers subject to
26 such sections and to distinguish those regulated motor carriers
27 from other commercial motor carriers not subject to such sections.
28 The Director of Motor Vehicles shall prepare a form of license

1 plate and renewal tab for such regulated motor carriers and furnish
2 a sufficient supply of them to the commission.

3 Sec. 16. Section 75-307.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 75-307.01. A motor carrier of property and a private
6 carrier of property in intrastate commerce which operates a
7 commercially licensed motor vehicle with a gross vehicle weight
8 rating over ten thousand pounds which are not otherwise required to
9 register with the commission pursuant to sections 75-348 to 75-358
10 shall conform to the filing and approval requirements provided
11 under section 75-307. To sustain the administration and
12 enforcement of this section, each motor carrier and private carrier
13 subject to this section shall pay an annual registration fee
14 established by the commission not to exceed seventy-five dollars at
15 the time the initial insurance filing is made and shall renew the
16 registration annually. The annual registration period expires on
17 the first day of the month one year from the month of issuance, and
18 renewal becomes delinquent on the first day of the following month.
19 The commission shall collect the fees and remit them to the State
20 Treasurer within thirty days after receipt for credit to the
21 General Fund. A motor carrier of household goods which pays annual
22 fees under section 75-305 and which holds a certificate of public
23 convenience and necessity or a permit issued by the commission
24 pursuant to sections 75-301 to 75-322 and sections 1 to 5 of this
25 act shall not be required to register under this section.

26 Sec. 17. Section 75-309, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 75-309. Except for operations pursuant to a contract

1 authorized by sections 75-303.01 and 75-303.02, it shall be
2 unlawful for any common or contract carrier by motor vehicle
3 subject to the provisions of sections 75-101 to 75-155 and 75-301
4 to 75-322 and sections 1 to 5 of this act to engage in any
5 intrastate operations on any public highway in Nebraska unless
6 there is in force with respect to such common carrier a certificate
7 of public convenience and necessity, or a permit to such contract
8 carrier, issued by the commission which authorizes such operations.

9 Sec. 18. Section 75-311, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 75-311. (1) A certificate shall be issued to any
12 qualified applicant authorizing the whole or any part of the
13 operations covered by the application if it is found after notice
14 and hearing that (a) the applicant is fit, willing, and able
15 properly to perform the service proposed and to conform to the
16 provisions of sections 75-301 to 75-322 and sections 1 to 5 of this
17 act and the requirements, rules, and regulations of the commission
18 under such sections and (b) the proposed service, to the extent to
19 be authorized by the certificate, whether regular or irregular,
20 passenger or household goods, is or will be required by the present
21 or future public convenience and necessity. Otherwise the
22 application shall be denied.

23 (2) A permit shall be issued to any qualified applicant
24 therefor authorizing in whole or in part the operations covered by
25 the application if it appears after notice and hearing from the
26 application or from any hearing held on the application that (a)
27 the applicant is fit, willing, and able properly to perform the
28 service of a contract carrier by motor vehicle and to conform to

1 the provisions of such sections and the lawful requirements, rules,
2 and regulations of the commission under such sections and (b) the
3 proposed operation, to the extent authorized by the permit, will be
4 consistent with the public interest by providing services designed
5 to meet the distinct needs of each individual customer or a
6 specifically designated class of customers as defined in
7 subdivision (6) of section 75-302. Otherwise the application shall
8 be denied.

9 (3) No person shall at the same time hold a certificate
10 as a common carrier and a permit as a contract carrier for
11 transportation of household goods by motor vehicles over the same
12 route or within the same territory unless the commission finds that
13 it is consistent with the public interest and with the policy
14 declared in section 75-301.

15 (4) After the issuance of a certificate or permit, the
16 commission shall review the operations of all common or contract
17 carriers who hold authority from the commission to determine
18 whether there are insufficient operations in the transportation of
19 household goods to justify the commission's finding that such
20 common or contract carrier has willfully failed to perform
21 transportation under sections 75-301 to 75-322 and sections 1 to 5
22 of this act and rules and regulations promulgated under such
23 sections. If the commission determines that there are insufficient
24 operations, then the commission shall commence proceedings under
25 section 75-315 to revoke the certificate or permit involved.

26 (5) This section shall not apply to operations pursuant
27 to a contract authorized by sections 75-303.01 and 75-303.02.

28 Sec. 19. The Revisor of Statutes shall assign sections 1

1 to 5 of this act within Chapter 75, article 3.

2 Sec. 19. Original sections 75-304 to 75-306, 75-307.01,
3 75-309, and 75-311, Reissue Revised Statutes of Nebraska, and
4 sections 75-109.01, 75-128, 75-156, 75-302, and 75-303, Revised
5 Statutes Supplement, 2002, are repealed.